

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY


(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 16 MAY 2006

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Applicant's or agent's file reference VV 2974/254/PCT	<b>FOR FURTHER ACTION</b>	See Form PCT/IPEA/416
International application No. PCT/EP2005/000686	International filing date (day/month/year) 25.01.2005	Priority date (day/month/year) 06.02.2004
International Patent Classification (IPC) or national classification and IPC INV. A23L1/212 A23L1/24 A23B7/02		
Applicant ZANICHELLI RICERCHE S.R.L.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>		
Date of submission of the demand  27.07.2005	Date of completion of this report  15.05.2006	
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer  Adechy, M  Telephone No. +49 89 2399-	



**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/EP2005/000686

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**Box No. I Basis of the report**

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1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements**\* of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

**Description, Pages**

1-22 as originally filed

**Claims, Numbers**

1-29 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	1-15
	No: Claims	16,21,22,25,26,27,28
Inventive step (IS)	Yes: Claims	1-15, 17-20,23
	No: Claims	16,21,22,24-29
Industrial applicability (IA)	Yes: Claims	1-29
	No: Claims	

2. Citations and explanations (Rule 70.7):

**see separate sheet**

**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

**1) Reference is made to the following documents:**

D1: WO 03/024243 A

D2: US 2003/224100 A1

D3: US-A-5 436 022

**2) Novelty Art 33 (1) and (2) PCT**

The subject matter of independent claims 16, 25 and 26 is not regarded as novel since D1 to D3 anticipate a tomato concentrate. The method of manufacturing such a product does not appear to confer to the products of claims 16 and 25 any distinguishing technical features. Moreover, the use of the said product as a condiment is also known from the cited documents.

The subject matter of dependent claims 21, 22, 27 and 28 would be regarded as novel only in relation with an independent claim fulfilling the requirements of Art. 33 (1) and (2) PCT.

**3) Inventive step Art 33 (1) and (3) PCT**

The problem to be solved consists in improving organoleptic quality of tomato based product, by adjusting the insoluble solids / insoluble solids ration in the final product. The solution to the problem to be solved consist in using conventionally manufactured tomato concentrate, adding water and separating water and concentrate by solid-liquid separation under stirring.

The closest prior art is D1 relating to tomato concentrate obtained by separating tomato product into 2 stream of different viscosity, concentrating the portion with the lowest viscosity and combining the two portion. The said document differs from the present application in that it does not disclose the addition of water to a concentrate having a solid residue of more than 15%, followed by liquid separation using a solid-liquid apparatus. D1 uses a decanter in order to obtain two fractions and further treat them individually for concentration.

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(SEPARATE SHEET)**

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The solution provides an improved process for manufacturing tomato concentrate, wherein the insoluble solids / soluble solids ratio is adjusted by the manufacturing method to obtained desirable properties.

The subject matter of claims 17-20 and 23 are regarded as fulfilling the requirements of Art 33(1) and (3) PCT since the amount of insoluble solids and soluble solids solve the problem of improving taste of tomato based concentrates and was not suggested by the prior art.

The subject matter of claims 24 and 29 would be regarded as involving an inventive step only in relation with an independent claim fulfilling the requirements of Art. 33 (1) and (3) PCT.